

FILED '10 JAN 25 11:41 USDC-ORE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

| | | |
|-------------------------|---|----------------------|
| Jose Orozco-Silva, |) | |
| |) | |
| Plaintiff, |) | Civil No. 08-6084-TC |
| |) | |
| v. |) | FINDINGS AND |
| |) | RECOMMENDATION |
| Pedro Gutierrez et al., |) | |
| <u>Defendants.</u> |) | |

COFFIN, Magistrate Judge:

After plaintiff's counsel withdrew, this court issued an order (#26) requiring plaintiff to notify the court within 30 days if he would be obtaining substitute counsel or proceeding pro se. Plaintiff was ordered to respond to the order and cautioned that a failure to respond would result in the dismissal of this action for failure to prosecute and failure to comply with a court order. Plaintiff has not responded. As such, this action should be dismissed for failure to prosecute and failure to comply with a court order. The five factors for dismissal discussed in Malone v. United States Postal Service, 833 F.2d 128 (9th Cir. 1987) have been weighed and indicate that dismissal is proper.

DATED this 25 day of January, 2010.


 THOMAS M. COFFIN
 United States Magistrate Judge